

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with the applicant's attorney Mr. Eugene S. Indyk on 9/3/2009.

The application has been amended as follows:

#### **IN THE CLAIMS:**

Claim 31, line 6, before "soft", --the-- has been inserted; line 8, before "soft", --the-- has been inserted; line 14, before "each", --said-- has been inserted; line 18, "the" first occurrence, has been deleted and --an-- has been inserted.

Claim 32, line 6, before "soft", --the-- has been inserted; line 8, before "soft", --the-- has been inserted; line 14, "the" first occurrence, has been deleted and --an-- has been inserted.

Claim 38, line 7, before "soft", --the-- has been inserted; line 10, before "soft", --the-- has been inserted; line 13, "the" first occurrence, has been deleted and --an-- has been inserted; line 13, before "soft", --the-- has been inserted; line 16, before "soft", --the-- has been inserted.

Claim 43, "the" first occurrence, has been deleted and --a-- has been inserted.

Claim 53, line 3, "the" first occurrence, has been deleted and , --an-- has been inserted.

Claim 55, line 6, before “soft”, --the-- has been inserted; line 14, “the” first occurrence, has been deleted and --an-- has been inserted.

***Allowable Subject Matter***

2. Claims 31-32,38-55 are allowed.
3. The following is an examiner’s statement of reasons for allowance: the prior art fails to disclose or render obvious a soft serve food product manufacturing, storage, and dispensing machine in combination with the other claimed limitations of claim 31: “in which each emulsification chamber has a first end and a second end, an inlet connected to the first end, and an outlet connected to the second end; and in which said each emulsification chamber contains a rotatable whipping assembly extending from the first end to the second end of the emulsification chamber, the whipping assembly comprising first and second end pieces supporting a plurality of longitudinally extending rods connected between the end pieces, each rod being radially displaced from an axis of rotation of the whipping assembly”.

The prior art fails to disclose or render obvious a soft serve food product manufacturing, storage, and dispensing machine in combination with the other claimed limitations of claim 32: “in which the emulsification assembly comprises a plurality of emulsification chambers connected in series; in which each emulsification chamber contains a rotatable whipping assembly comprising a plurality of longitudinally extending rotatable rods and a plurality of longitudinally extending stationary rods, each rod being radially displaced from an axis of rotation of the whipping assembly, at least some of the rotatable rods being radially displaced from the axis of rotation by unequal amounts”.

The prior art fails to disclose or render obvious a soft serve food product manufacturing, storage, and dispensing machine in combination with the other claimed limitations of claim 38: “a pump connected between the first and second ends of the emulsification assembly, the pump being adapted to withdraw the soft serve food product from one end of the emulsification assembly and to introduce the soft serve food product withdrawn from the one end of the emulsification assembly into an other end of the emulsification assembly, thereby circulating the soft serve food product in the closed loop circulation system”.

The prior art fails to disclose or render obvious a soft serve food product manufacturing, storage, and dispensing machine in combination with the other claimed limitations of claim 55: “in which said each emulsification chamber contains a rotatable whipping assembly comprising a first plurality of rotatable emulsification elements and a second plurality of emulsification elements, each of the emulsification elements being radially displaced from an axis of rotation of the whipping assembly, the first and second pluralities of emulsification elements being arranged such that a shearing action is created between the first and second pluralities of emulsification elements when the first plurality of emulsification elements is rotated around the axis of rotation of the whipping assembly”.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.

***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (571)-272-4931. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver, can be reached on 571-282-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Frederick C. Nicolas/  
Primary Examiner, Art Unit 3754